

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
Applications for Consent to the)
Transfer of Control of Licenses and)
Section 214 Authorizations from)
)
TELE-COMMUNICATIONS, INC.,)
Transferor)
to)
AT&T CORPORATION,)
Transferee)

CS Docket No. 98-178

To: The Commission

**SUPPLEMENT TO MOTION OF U S WEST REGARDING HART-SCOTT-RODINO
DOCUMENTS**

U S WEST, Inc. ("U S WEST") respectfully submits this supplement to its earlier motion (filed on December 7, 1998) requesting that the Commission expedite its ruling on the Motion of SBC Communications Inc. To Require Review of Hart-Scott-Rodino and Other Documents (filed on October 14, 1998).

As both U S WEST and SBC have emphasized in their motions, the Commission has previously required the applicants in major telecommunications mergers to provide both the Commission and interested parties with access to all HSR documents filed with DOJ and relevant to the competitive effects of the proposed merger. AT&T has been a leading proponent of such disclosure. There is no rational basis for the Commission to treat the proposed AT&T/TCI merger any differently. So far, however, the Commission has imposed much more limited disclosure obligations on AT&T and TCI. On December 31, 1998, the Cable Services

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Bureau released an order that addresses production solely of documents that AT&T plans to submit *voluntarily* to the Commission.^{1/} As the pending motions have made clear, there is no reason for adopting the wholly new approach in this case of letting the merger parties pick and choose the documents to be made available to the Commission and to interested parties. Moreover, the order of the Cable Services Bureau was limited to documents that relate to AT&T/TCI's "deployment of *telephony* capabilities."^{2/} The public interest inquiry required by Sections 214 and 310(d) of the Communications Act in this proceeding is by no means limited to the effect of this proposed transaction on voice telephony services. In particular, as the Commission's *other* inquiries at the December 14 en banc hearing confirm, the potential impact of this merger on the competitive structure of the market for high speed data services is a "serious issue" -- and one that Chairman Kennard has determined that "we've got to understand."^{3/} Therefore, documents relating to the competitive effects in these other markets are relevant and should be disclosed.

Recent events have served only to underscore the importance of that inquiry: AT&T's decision to "accelerate plans" to provide "high-speed data services" as well as voice telephony, its January 1999 agreements to provide "advanced communications services for five additional TCI affiliates (serving 5 million more households),"^{4/} and TCI-controlled @Home's announcement this month of its decision to enter into a long-term agreement to use AT&T as its

^{1/} Order Adopting Protective Order, DA 98-2653 (rel. Dec. 31, 1998), at ¶ 1.

^{2/} *Id.* (emphasis added).

^{3/} Multichannel News, Nov. 30, 1998, at 126.

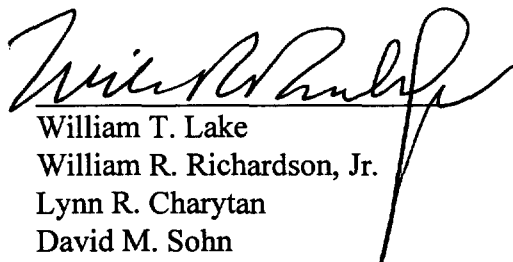
^{4/} See AT&T SEC Form 8-K (Jan. 8, 1999), Exs. 99.2, 99.3.

provider of Internet backbone capability starting in mid-1999.^{5/} Given AT&T's accelerated timetable, these questions should not be deferred or the injury to competition in this emerging market may prove irreparable.

CONCLUSION

For the foregoing reasons, the Commission should grant SBC's motion promptly and order the applicants to provide the Commission and interested parties with access to HSR documents in the same manner as in other recent proceedings.

Respectfully submitted,



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January 19, 1999

^{5/}

@Home Network Press Release, Jan. 5, 1999.

CERTIFICATE OF SERVICE

I, David M. Sohn, do hereby certify that on this 19th day of January 1999, I have caused a copy of the foregoing **Supplement to Motion of U S WEST, Inc., Regarding Hart-Scott-Rodino Documents** to be served either by hand delivery or by first class U.S. mail, postage prepaid, upon the parties listed on the attached Service List.


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